

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING  
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
AND NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **December 18, 2008**, at 10:00 a.m.  
in the Auditorium of the State Resources Building,  
1416 9<sup>th</sup> Street, Sacramento, California 95814.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **December 18, 2008**, following the Public Meeting,  
in the Auditorium of the State Resources Building,  
1416 9<sup>th</sup> Street, Sacramento, California 95814.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **December 18, 2008**, following the Public Hearing,  
in the Auditorium of the State Resources Building,  
1416 9<sup>th</sup> Street, Sacramento, California 95814.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE:** Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD**

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JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, High-Voltage Electrical Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **December 18, 2008**.

1. TITLE 8:     **HIGH VOLTAGE ELECTRICAL SAFETY ORDERS**  
                  Division 1, Chapter 4, Subchapter 5, Group 2  
                  **High-Voltage Electrical Safety Orders**

Descriptions of the proposed changes are as follows:

1. **TITLE 8:**      **HIGH VOLTAGE ELECTRICAL SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 5, Group 2  
**High-Voltage Electrical Safety Orders**

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

The Occupational Safety and Health Standards Board (Board) intends to adopt the proposed rulemaking action pursuant to Labor Code Section 142.3, which mandates the Board to adopt standards at least as effective as federal standards addressing occupational safety and health issues.

On February 14, 2007, the U.S. Department of Labor, Occupational Safety and Health Administration (Federal OSHA) promulgated standards revising the general industry electrical installation standards found in Subpart S of 29 Code of Federal Regulations (CFR) Part 1910. The Board is relying on the explanation of the provisions of the federal standards in Federal Register, Volume 72, No. 30, pages 7136-7221, February 14, 2007, as the justification for the Board's proposed rulemaking action. The Board proposes to adopt standards which are the same as the federal standards except for minor editorial and format differences, or where existing state standards provide a higher level of safety. Furthermore, obsolete cross-references to California Code of Regulations, Title 24 are also proposed for deletion under provisions of the California Code of Regulations, Title 1, Section 100. Prior to September 30, 2002, the Standards Board was mandated by Health and Safety Code Section 18943(b) to submit Title 8 building standards to the California Building Standards Commission for their approval and adoption into Title 24, the California Building Code.

Assembly Bill 3000 (Stats. 2002, c. 1124), which was signed by the Governor and filed with the Secretary of State on September 30, 2002, formally exempted the Standards Board from the building standard requirements contained in the Health and Safety Code as well as those contained in Labor Code Sections 142.3 and 142.6. Consequently, all previous references to Title 24 have been deleted.

In the final rule, Federal OSHA has revised its existing general industry electrical installation standards contained in Sections 1910.302-1910.308 along with relevant definitions found in Section 1910.399. Federal OSHA's existing electrical standards are based on the 1979 edition of NFPA 70E, Standard for Electrical Safety Requirements for Employee Workplaces. The final federal rule is based primarily on Part I of the 2000 edition of NFPA 70E which, in turn, is based on the 1999 National Electrical Code (NEC). Thus the proposal will reflect more current practice and technology as well as respond to requests from stakeholders that Subpart S reflect the most recent editions of NFPA 70E which the industry is already voluntarily complying with in its present form. Federal OSHA is of the opinion that the revised standard will facilitate compliance by stakeholders, including small businesses, while also improving safety for employees.

Subjects addressed by the proposal include, but are not limited to, the following:

- Definitions of terms used in the HVESO
- Approval of installations and equipment
- Examination, installation and use of equipment
- Marking and identification
- Overcurrent protection
- Grounding

- Wiring methods
- Temporary wiring
- Enclosures for electrical installations
- Interrupting and isolating devices
- Transformers
- Control of motors and generators
- Workspace and guarding
- Communications systems
- Induction and dielectric heating equipment
- Integrated electrical systems

The proposed standards are substantially the same as the final rule promulgated by federal OSHA. Labor Code Section 142.3(a)(3) exempts the Board from the provisions of Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, Part 1, Division 3 of Title 2 of the Government Code when adopting standards substantially the same as federal standards. However, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written and oral comments at the public hearing is to:

1. Identify any issues unique to California related to this proposal which should be addressed in a subsequent rulemaking; and
2. Solicit comments on the proposed effective date.

The responses to comments will be available in the rulemaking file on this matter and will be limited to the above areas.

The effective date is proposed to be upon filing with the Secretary of State as provided by Labor Code Section 142.3(a)(3). The standards may be adopted without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

### **DOCUMENTS INCORPORATED BY REFERENCE**

- 29 CFR 1910.7, Definition and requirements for a nationally recognized testing laboratory.

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

### **COST ESTIMATES OF PROPOSED ACTION**

OSHA's estimation of compliance costs found in Federal Register, Vol. 72, No. 30, February 14, 2007, Preamble Section VI, Final Economic and Regulatory Screening Analysis, subsection D, Estimation of Compliance Costs, notes that there is already within the industry widespread use of the 1999 (or later) edition of the National Electrical Code (NEC) upon which the federal promulgation was based. Since this rulemaking proposal merely incorporates the federal standards where necessary to make California's High-Voltage Electrical Safety Orders at least as effective, Board staff therefore relies on OSHA's estimate of compliance costs in making a determination that this rulemaking of High-Voltage Electrical Safety Orders will have no appreciable cost impact on the regulated public.

## **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standards not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

## **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses. However, no significant economic impact is anticipated.

## **ASSESSMENT**

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

## **REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board’s

Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than December 12, 2008. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on December 18, 2008, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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JOHN D. MACLEOD, Chairman

NOTICE OF ADOPTION OF  
REGULATIONS  
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS  
BY THE  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Division 1, Chapter 4, Subchapter 4, Construction Safety Orders, Article 4, New Section 1530.1, **Control of Employee Dust Exposure from Concrete and Masonry Operations.**

Heard at the December 13, 2007, Public Hearing; adopted on August 21, 2008; filed with the Secretary of State on September 22, 2008; and will become effective on October 22, 2008.

Copies of this standard are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: <http://www.dir.ca.gov/oshsb> and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov).

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Marley Hart, Executive Officer